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TELECOPIER TRANSMISSION COVER SHEETFacsimile Transmitting No: **703-872-9306**To: **United States Patent and Trademark Office**Attorney Docket No.: **03382-P0099A (25896-338)**In re application of: **Ronald S. Kolessar, et al.**Serial No.: **10/811,174** Group Art Unit: **2171**Filed: **March 25, 2004 (March 26, 2004)** Examiner: **TBA**Entitled: **SYSTEMS AND METHODS FOR GATHERING DATA CONCERNING
USAGE OF MEDIA DATA**Paper(s) Being Transmitted: **PETITION UNDER 37 CFR § 1.10(d) TO CORRECT
FILING DATE OF APPLICATION (with Appendices A and B)**

The Commissioner is authorized to charge any fees incurred by reason of this Petition
or credit any overpayment, to Deposit Account No. 03-3415.

Number of Pages Being transmitted (including cover page): **12****CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that these papers are being facsimile transferred to the United
States Patent and Trademark Office on the date shown below.

Eugene L. Flanagan, III, 27,634
Attorney Name and Reg. No.


Signature

7/7/2005
Date

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03382-P0099A (25896-338)

VIA FACSIMILE: 703-872-9306

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Ronald S. Kolessar, et al.

Application No.: 10/811,174

Group Art Unit: 2171

Filed: March 25, 2004 (March 26, 2004)

Examiner: Martha K. Holtje

For: SYSTEMS AND METHODS FOR GATHERING DATA CONCERNING USAGE OF
MEDIA DATA

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

PETITION UNDER 37 C.F.R. § 1.10(d)
TO CORRECT FILING DATE OF APPLICATION

SIR:

This is a Petition under 37 C.F.R. § 1.10(d) to correct the filing date of the above-referenced patent application. As demonstrated below, the above-referenced application was originally filed via Express Mail on March 26, 2004, and, therefore, should have been accorded a filing date of March 26, 2004. Instead, the U.S. Patent & Trademark Office incorrectly accorded the present application a filing date of March 25, 2004, since the "date-in" on the Express Mail Mailing Label incorrectly stated March 25, 2004.

The pertinent facts are as follows:

(1) During March, 2005, the undersigned attorney of record was instructed by Arbitron, Inc., the assignee of the present U.S. application, to prepare and file an International (PCT)

application that corresponds to and claims priority to the present U.S. application. The attorney of record's internal database indicated that the due date to file the international application was March 28, 2005 (since the internally recorded filing date of the present U.S. application was entered as March 26, 2004 and March 26, 2005 fell on a Saturday). The international application was filed on March 28, 2005, at which time the attorney of record discovered that the U.S. application was officially accorded a filing date of March 25, 2004. Shortly after filing the international application, a review of the attorney's file of the present U.S. application was made and an e-mail was sent to the U.S. Postal Service requesting information pertaining to the filing.

(2) Attached in Exhibit A are copies of select documents that were submitted with the initial filing of the present application including: (a) Utility Patent Application Transmittal; (b) return postcard (check also shown photocopied on same page as return postcard); and (c) Express Mail Label. Also included in Exhibit A is a copy of the returned postcard with the U.S. Patent & Trademark Office's stamp. As shown, the Utility Patent Application Transmittal itemizes all of the papers and fee that were submitted and also prominently indicates Express Mail Label No. EL 889 891 135 US (see MPEP 513 (III)). Also, the Utility Patent Application Transmittal and the Return Postcard identify the mailing date as March 26, 2004. However, the "Date In" on the Express Mail Label, entered by a U.S. Postal Service employee, is identified as March 25, 2004. As evidenced below, the date entered in the "Date In" section on the Express Mail Label is incorrect.

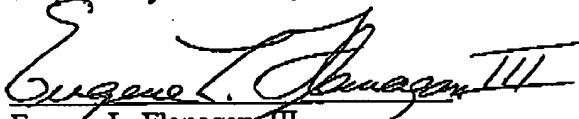
(3) Attached in Exhibit B are copies of one page of the attorney of record's Express Mail Logbook (of the attorney's prior firm) and an e-mail notification sent by the U.S. Postal Service. The Express Mail Logbook includes an entry (identified by the "+") that identifies the express mail number "EL889891135US," a date of deposit of "3/26," a time of deposit of "4:40," a time

for last scheduled pickup of "5pm", the signature of the depositor, a date of logbook entry of "3/26" and a time of logbook entry of "5pm." Further, the U.S. Postal Service e-mail identifies, with respect to express mail label no. EL889891135US, that the Express Mail Package was accepted by the U.S. Postal Service on "3/26/04 4:53pm." Thus, the documents presented sufficiently show that the present application was originally filed on March 26, 2004.

In light of the foregoing, it is respectfully requested that the above-referenced U.S. patent application be accorded a filing date of March 26, 2004, the actual date of deposit of the original filing of this application with the U.S. Postal Service.

The Commissioner is authorized to charge the petition fee of \$130.00 to Deposit Account No. 03-3415, and any other fee required in connection with the consideration and/or granting of this petition should be charged to Deposit Account No. 03-3415.

Respectfully submitted,



Eugene L. Flanagan, III
Reg. No. 27,634

COWAN, LIEBOWITZ & LATMAN, P.C.
1133 Avenue of the Americas
New York, NY 10036-6799
(212) 790-9200

EXHIBIT A

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JUL 07 2005

PTO/SB/05 (11-00)

Approved for use through 07/31/03. OMB 0851-0032

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

| | | | |
|---|--|---|--|
| UTILITY PATENT APPLICATION TRANSMITTAL <small>(Only for new nonprovisional applications under 37 CFR 1.53(b))</small> | | Attorney Docket No. 03382- P0099A First Inventor Ronald S. Kolessar, et al. Title Systems and Methods for Gathering Data Concerning Usage of Media Data Express Mail Label No. EL 889 891 135 US | |
| APPLICATION ELEMENTS <small>See MPEP chapter 600 concerning utility patent application contents</small> | | ADDRESS TO: Mail Stop Patent Application Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 | |
| 1. <input checked="" type="checkbox"/> Fee Transmittal Form (e.g., PTO/SB/17) <small>(Submit an original, and a duplicate for fee processing)</small> 2. <input type="checkbox"/> Applicant claims small entity status <small>See 37 CFR 1.27.</small> 3. <input checked="" type="checkbox"/> Specification [Total Pages 68] <small>(preferred arrangement set forth below)</small> - Descriptive title of the invention - Cross References to Related Applications - Statement Regarding Fed sponsored R & D - Reference to sequence listing, a table, or a computer program listing appendix - Background of the Invention - Brief Summary of the Invention - Brief Description of the Drawings (if filed) - Detailed Description - Claims(s) - Abstract of the Disclosure 4. <input checked="" type="checkbox"/> Drawings(s) (35 USC 113) [Total Sheets 15] 5. Oath or Declaration [Total Sheets 4] a. <input checked="" type="checkbox"/> Newly executed (original or copy) b. <input type="checkbox"/> Copy from prior application (37 CFR 1.63(d)) <small>(for continuation/divisional with Box 18 completed)</small> c. <input type="checkbox"/> DELETION OF INVENTOR(S) <small>Signed statement attached declaring inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).</small> 6. <input type="checkbox"/> Application Data Sheet. See 37 CFR 1.76 | | 7. <input type="checkbox"/> CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix) 8. Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary) a. <input type="checkbox"/> Computer Readable Form (CRF) b.: Specification Sequence Listing on: i. <input type="checkbox"/> CD-ROM or CD-R (2 copies); or ii. <input type="checkbox"/> paper c. <input type="checkbox"/> Statement verifying identity of above copies ACCOMPANYING APPLICATION PARTS 9. <input checked="" type="checkbox"/> Assignment Papers (cover sheet & document(s)) 10. <input type="checkbox"/> 37 CFR 3.73(b) Statement (when there is an assignee) <input type="checkbox"/> Power of Attorney 11. <input type="checkbox"/> English Translation Document (if applicable) 12. <input type="checkbox"/> Information Disclosure Statement (IDS)/PTO-1449 <input type="checkbox"/> Copies of IDS Citations 13. <input type="checkbox"/> Preliminary Amendment 14. <input checked="" type="checkbox"/> Return Receipt Postcard (MPEP 503) <small>(Should be separately submitted)</small> 15. <input type="checkbox"/> Certified Copy of Priority Document(s) (if foreign priority is claimed) 16. <input type="checkbox"/> Nonpublication Request and Certification under 35 U.S.C. 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35 of its equivalent. 17. <input type="checkbox"/> Other..... | |
| 18. If a CONTINUING APPLICATION, check appropriate box and supply the requisite information below and in the first sentence of the specification following the title, or in an Application Data Sheet under 37 CFR 1.76: <input type="checkbox"/> Continuation <input type="checkbox"/> Divisional <input type="checkbox"/> Continuation-in-part (CIP) of prior application No.: Prior application information: Examiner Group/Art Unit: For CONTINUATION OR DIVISIONAL APPS only: The on-line disclosure of the prior application, from which an oath or declaration is supplied under Govt 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. This incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts. | | | |
| 18. CORRESPONDENCE ADDRESS | | | |
| <input checked="" type="checkbox"/> Customer Number: 24126 OR <input checked="" type="checkbox"/> Correspondence address below | | | |
| Name Eugene L. Flanagan III Address St. Onge Steward Johnston & Reens LLC 986 Bedford Street City Stamford State CT Zip Code 06905-5619 Country United States Telephone 203 324-6155 Fax 203 327-1096 | | | |
| Name (Print/Type) Eugene L. Flanagan III | | Registration No. (Attorney/Agent) 27,634 | |
| Signature <i>Eugene L. Flanagan III</i> | | Date 03/26/2004 | |

This collection of information is required by 37 CFR 1.53(b). The information is required to obtain or retain a benefit by the public which is to be (and by the USPTO to process) an application. Confidentiality is governed by 38 U.S.C. 172 ND 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Office, Patent and Trademark Office, Washington, DC 20231-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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ST. ONGE STEWARD JOHNSTON & REENS LLC

057676

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03/26/04 OPER-SKD 3,392.00 03382-P0099A Express Mail No. EL889891135US

ST. ONGE STEWARD JOHNSTON
& REENS LLC

900 BEDFORD STREET
STAMFORD, CT 06905

First Bank
Stamford, Connecticut

51-57
119

CHECK NO. 57676

057676

THREE THOUSAND THREE HUNDRED NINETY TWO AND 00/100 DOLLARS

DATE

AMOUNT

03/26/04 *\$3,392.00*

PAY
TO THE
ORDER
OF

Commissioner of Patents & Trademarks



⑈057676⑈ ⑆011900571⑆ 0001 51059⑈

Case No. 03382-P0099A ELF/skd

Applicants: Ronald S. Kolessar, et al.

For: Systems and Methods for Gathering Data Concerning
Usage of Media Data

Receipt is hereby acknowledged of New Application Transmittal, Fee
Transmittal, Patent Application (including Application Cover Sheet, 42
pages of specification, 25 pages of claims, and 1 page of abstract), 15
Sheets of Drawings, Declaration and Power of Attorney, Assignment Cover
Sheet and Assignment, and \$3,392.00 Check.

Mailed: March 26, 2004
Express Mail EL 889 891 135 US

Commissioner for Patents

PAGE 8/12 * RCVD AT 7/7/2005 4:14:18 PM (Eastern Daylight Time) * SVR:USPTO-EFXRF-1/3 * DNIS:8729306 * CSID: * DURATION (mm:ss):04:12

16834 U.S. PTO
10/811174

Case No. 03382-P0099A ELF/skd



032504

Applicants: Ronald S. Kolessar, *et al.*

For: Systems and Methods for Gathering Data Concerning
Usage of Media Data

Receipt is hereby acknowledged of New Application Transmittal, Fee Transmittal, Patent Application (including Application Cover Sheet, 42 pages of specification, 25 pages of claims, and 1 page of abstract), 15 Sheets of Drawings, Declaration and Power of Attorney, Assignment Cover Sheet and Assignment, and \$3,392.00 Check.

→ Mailed: March 26, 2004 ←
Express Mail EL 889 891 135 US

Commissioner for Patents

6-25-04-103
3-25-05-25 (9)

EXHIBIT B

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PAGE 2

SSJR EXPRESS MAIL LOGBOOK

| SSJR File No. | Express Mail No. | Application No. (or "pending") | Date of Deposit | Time of Deposit | Place of Deposit | Time for Last Sched. Pickup | Signature of Depositor | Date of Logbook Entry | Time of Logbook Entry |
|---------------|------------------|--------------------------------|-----------------|-----------------|------------------|-----------------------------|------------------------|-----------------------|-----------------------|
| 370 - | EL 889 89 3145 | | 3/22 | 4:38 | RW | 5pm | Jennifer Saunders | 3/22 | 4:54pm |
| 371 - | EL 889 89 3145 | | 3/23 | 4:39 | RW | 5pm | Jennifer Saunders | 3/23 | 5pm |
| 372 - | EL 889 89 3145 | | 3/26 | 4:43 | RW | 5pm | Jennifer Saunders | 3/26 | 5pm |
| 373 - | EL 889 89 3145 | | 3/26 | 4:39 | RW | 5pm | Jennifer Saunders | 3/26 | 5pm |
| 374 - | EL 889 89 3145 | | 3/26 | 4:39 | RW | 5pm | Jennifer Saunders | 3/26 | 5pm |
| 375 - | EL 889 89 3145 | | 3/26 | 4:39 | RW | 5pm | Jennifer Saunders | 3/26 | 5pm |
| 376 - | EL 889 89 3145 | | 3/26 | 4:42 | RW | 5pm | Jennifer Saunders | 3/26 | 5pm |
| 377 - | EL 889 89 3145 | | 3/26 | 4:44 | RW | 5pm | Jennifer Saunders | 3/26 | 5pm |
| 378 - | EL 889 89 3145 | | 3/26 | 4:53 | RW | 5pm | Jennifer Saunders | 3/26 | 5pm |
| 379 - | EL 889 89 3145 | | 3/26 | 4:40 | RW | 5pm | Jennifer Saunders | 3/26 | 5pm |
| 380 - | EL 889 89 3145 | | | | | | | | |
| 381 - | EL 889 89 3145 | | | | | | | | |
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| 383 - | EL 889 89 3145 | | | | | | | | |
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| 388 - | EL 889 89 3145 | | | | | | | | |
| 389 - | EL 889 89 3145 | | | | | | | | |
| 390 - | EL 889 89 3145 | | | | | | | | |

Complete entry in logbook within one day of deposit as Express Mail.
 After all entries for day are complete, return photocopy of logbook page to the attorney or his/her assistant who prepared the document which was sent via Express Mail.

Instructions to Depositor of Express Mail:

(1)
(2)

OHara, Debbie

From: U.S. Postal Service [U.S. Postal Service@usps.com]
Sent: Wednesday, April 27, 2005 10:39 AM
To: OHara, Debbie
Subject: U.S. Postal Service Track & Confirm email Restoration - EL88 9891 135U S

This is a post-only message. Please do not respond.

Debbie OHara has requested that you receive this restoration information for Track & Confirm as listed below.

Current Track & Confirm e-mail information provided by the U.S. Postal Service.

Label Number: EL88 9891 135U S

Service Type: Express Mail - Post Office to Addressee

| Shipment Activity | Location | Date & Time |
|-----------------------------|---------------------|-------------------|
| DELIVERED TO: M BOSTON | ALEXANDRIA VA 22313 | 03/29/04 8:36am |
| ARRIVAL AT PICK-UP-POINT | ALEXANDRIA VA 22313 | 03/27/04 8:55am |
| ARRIVAL AT UNIT | DULLES VA 20102 | 03/27/04 7:45am |
| ENROUTE | STAMFORD CT 06910 | 03/26/04 7:07pm |
| →ACCEPTANCE | STAMFORD CT 06905 | 03/26/04 4:53pm ← |

USPS has not verified the validity of any email addresses submitted via its online Track & Confirm tool.

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